

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION)	CASE NO. 1:17-MD-2804
)	
)	Judge Dan Aaron Polster
THIS DOCUMENT RELATES TO:)	
)	
<i>All Cases</i>)	
)	
)	<u>ORDER REGARDING MOTION FOR</u>
)	<u>RECONSIDERATION</u>
)	

On February 24, 2025, the PBMs moved this Court to order the disclosure of all *ex parte* communications between plaintiffs’ counsel and the Court, the Special Masters, and their staff. Docket no. 5968. The basis for this extraordinary request was the PBMs’ discovery that plaintiffs’ attorney Michael Kahn, during a 2019 presentation soliciting a subdivision client for Opioid litigation, stated (among other things) that plaintiffs’ liaison counsel, Peter Weinberger, had “total access to” the undersigned and engaged in frequent *ex parte* communications with this Court.

The Court denied the PBMs’ motion to order the disclosure of all *ex parte* communications between plaintiffs’ counsel and the Court; however, the Court did immediately set an evidentiary hearing for March 12, 2025, and ordered Mr. Kahn to appear in person to testify.

The PBMs now move for reconsideration of the denial of their earlier request for disclosure of *ex parte* communications (docket no. 5999). The motion for reconsideration is **DENIED**.

Mr. Kahn’s public statements are unsupported hearsay. The PBMs have certainly demonstrated a need to question Mr. Kahn under oath regarding his statements, and the Court has

scheduled a hearing to do so on March 12, 2024. But Mr. Kahn's bald, unsworn statements are an insufficient basis to enter the sweeping order the PBMs seek. If Mr. Kahn's testimony demonstrates a basis for questioning any additional witnesses, or to order the production of any documents or communications, the Court will take appropriate action at that time.

The Court also denies the PBMs' request, made for the first time in their motion for reconsideration, that another judge conduct the March 12 hearing. The Court intends to examine Mr. Kahn thoroughly, and counsel for both sides will have a full opportunity to ask follow up questions.

IT IS SO ORDERED.

/s/ Dan Aaron Polster

DAN AARON POLSTER

UNITED STATES DISTRICT JUDGE

Dated: March 5, 2025